

1 A Okay.

2 Q We are trying to make this as complete as
3 possible.

4 A Okay.

5 Q What is your current address?

6 A Current address is 951 Warwick, W-A-R-W-I-C-K,
7 Avenue, Apartment A-3, Thousand Oaks, California 91360.

8 Q Prior to your current address, where have you
9 resided in the last 10 years?

10 A I resided in Camarillo. I think the -- it's hard
11 to remember the exact address, but I think it was 560 Calle
12 La Roda -- I can spell it. I can't pronounce it. It's
13 C-A-L-L-E L-A R-O-D-A. I think it was Apartment 233. I
14 know it was in the 200s. That was in Camarillo, California,
15 and I don't recall the zip.

16 Prior to that, I lived at 615 Hampshire Road,
17 Apartment 349, Thousand Oaks, California 91361. Prior to
18 that, was 615 -- no, I'm sorry. 615 was the one before
19 this. I was at 615 Hampshire Road and then I moved to 617
20 Hampshire Road in the same apartment complex. I was living
21 with my father at the time, and when I moved to Camarillo is
22 when I moved out of there.

23 Prior to that, I was at Lompoc Federal Correction
24 Institute in Lompoc, California. I don't recall the
25 address. Prior to that, I was living in -- well, I was

1 transferred, through the federal system. Prior to that, was
2 the Metropolitan Detention Center in Los Angeles, 535 North
3 Alameda, Los Angeles, California 90012.

4 Prior to that -- do you want all the federal
5 institution? Like they transferred me from Point A to Point
6 B. I don't recall all of them because when they transfer
7 you, they just hold you there for overnight.

8 Q If you can remember, yes.

9 A Okay, MDC. I was held in various county jails in
10 North Carolina pending trial. The U.S. Marshal Service
11 transferred you -- I know one was Smithfield, one was Wilson
12 County from the best of my recollection.

13 I know I was in Oklahoma for overnight. Arizona
14 for overnight. Actually, Oklahoma was a little bit longer.
15 Prior to that, when I was arrested, I lived in Raleigh,
16 North Carolina. I don't recall the address. It was the
17 Player's Club Apartments. I know the apartment number was
18 202.

19 Prior to that, I lived in Seattle on Brooklyn
20 Avenue. I think it was 5227 Brooklyn Avenue, Apartment No.
21 1 in Seattle. Prior to that, I lived in Denver, Colorado.
22 I think it was 3336 16th Street. I don't recall the zip
23 code.

24 Prior to that, I lived in Las Vegas. I resided at
25 two addresses -- 3028 Kennewick Avenue, Las Vegas, Nevada

1 89121. That's my mother's residence. Then I also stayed at
2 my grandmother's at 7113 West Gowan Road, Las Vegas, Nevada
3 89121. That's all I can -- I lived in Calabasas on Las
4 Virginous Road. I think it was 5360. I can't be sure of
5 the numbers. This is back in '92. Las Virginous Road in
6 Calabasas, California.

7 I was living with my father in one apartment.
8 Then I moved into my own apartment in the same complex. I
9 know my apartment was 213. I don't recall what his
10 apartment number was -- I think it was 387, but I'm not
11 positive.

12 Prior to that -- 10 years, you said. That's 10
13 years.

14 Q I don't need back to Day One. Ten years will
15 suffice.

16 A Yeah, that's about '92 because I know I was in
17 that apartment in Calabasas in at least December of '92.

18 Q For the places that you resided in from the period
19 of 1992 to 1995, the ones that you named, could you give us
20 the approximate time periods that you were there? And I
21 mean approximate. I'm not asking for exact dates now.

22 A Between '92 and '95?

23 Q Correct.

24 A '92 I lived in Calabasas -- I lived in Vegas like
25 going back -- my brother passed away in '92 -- January of

1 '92. I moved to LA to be with my father to support him, and
2 then that's when I moved from Las Vegas to California. That
3 I recall.

4 I stayed in LA until December 9th -- well, no, I
5 stayed in Calabasas until December 9th '92. Then I know I
6 left Los Angeles around Christmas Day of '92. Then I
7 believed I stayed in Las Vegas until March of '93. I moved
8 to Denver, Colorado. I stayed there until, I think, May or
9 June of '94. I moved to Seattle, Washington. I stayed
10 there, I believe, until October or November of '94. I think
11 October 28th of '94.

12 I left Seattle. Then I went through Los Angeles,
13 went through Las Vegas. Then I went to Raleigh, North
14 Carolina and I lived in Raleigh, North Carolina until
15 December -- well, I was arrested on December 5th -- no,
16 February 15, 1995. Then I was in the federal custody of
17 U.S. Marshal Service up until January 21, 2000.

18 Q Now prior to the North Carolina arrest, from that
19 period of 1992 through February of 1995, did you happen to
20 have any of your amateur radio operating equipment with you?

21 A Yes. I used to carry it -- let me think. Oh, no,
22 between '92 and '95, no. I had it up until December 9th of
23 '92, and then when I left that apartment, I didn't use my
24 amateur radio equipment.

25 Q What happened with that amateur radio equipment --

1 so far as you know?

2 A Part of it was seized by the federal government in
3 a search warrant, and some of it went to my grandmother's
4 address in Las Vegas.

5 Q What part of it was seized?

6 A I just got some evidence back from the Bureau this
7 week, and they returned a standard HT -- that's right, so
8 that would have been -- in Seattle I had a standard -- it
9 was an amateur radio transceiver, but I used it for
10 receiving only. I didn't use the amateur radio because at
11 the time it would have been foolish to use amateur radio, so
12 I did not.

13 In '92, they seized -- it was a computer case they
14 were investigation. They seized everything electronic,
15 which included amateur radio equipment. I don't recall the
16 exact makes and models. I know there was an ICOM HT. I
17 think there was a Standard -- the manufacturer was Standard
18 that they seized out of a vehicle that they searched as well
19 at the same time, but I don't recall the actual model
20 numbers. It's been too long ago.

21 Q You currently have amateur equipment?

22 A Yes, I do.

23 Q What equipment is that?

24 A It's an ICOM. It's a hand-held VX5R and I have an
25 ICOM V7A. These are high band transceivers. Well, 6

1 meters, 2 meters, 440. That's it, I believe.

2 Q You've had this equipment for approximately how
3 long?

4 A The VX5R and the ICOM V7A -- well, since my
5 release from custody. I bought those once I was released.
6 Sometime in 2000. I don't recall the date.

7 Q Now between February of 1995 and January of 2000,
8 when you were in federal custody, did you receive mail?

9 A Yes, yes.

10 Q Did you have a mailing address or mailing
11 addresses? How did you get mail?

12 A Simply people would -- I would just give the
13 address that the federal institution gave us to use, and
14 then, eventually, we would get our mail.

15 Q Now in 1999 -- I know it is going to be a little
16 bit difficult to focus on a particular year, but to the
17 extent you can, as I understand it, in 1999, you were in
18 Lompoc?

19 A Correct. I was in Lompoc FCI.

20 Q What mailing address would you use for you to get
21 mail there?

22 A At the actual prison?

23 Q Yes.

24 A I think it was 3600 Guard Road, Lompoc,
25 California. I don't recall the zip.

1 Q In 1999 you completed an application to renew your
2 amateur radio license, correct?

3 A Correct.

4 Q How did you obtain that application?

5 A I had a friend of mine send it to me.

6 Q If you can recall, and for the record, who was the
7 friend?

8 A It was a lady by the name of Kimberly Tracy, but
9 I've come to learn that may not be her real name. It might
10 be another name. I think her real name is Jacqueline
11 Barley.

12 Q Do you have a copy of your testimony there?

13 A Yes, I do.

14 THE COURT: This is Mitnick Exhibit 1, correct?

15 MR. SHOOK: Yes.

16 THE WITNESS: I have it in front of me.

17 BY MR. SHOOK:

18 Q Now if you could take a look at paragraph 2, and
19 my question is, does paragraph 2 of your testimony cover all
20 of your post-secondary school education?

21 A I went to Pierce College, which was a JC. I
22 didn't graduate from Pierce College. I went to a junior
23 college up in Northern California, I believe, in '83 called
24 Butte College. I just took a few courses. I went to UNLV.
25 I took like a nutrition course and a programming course. I

1 completed the nutrition course. I did not complete the
2 programming course.

3 Q That was also in the 1980s?

4 A No, that was '90s.

5 Q Okay.

6 A Pierce, Butte -- Butte was in '83. That was in
7 Orville, California. UNLV was, I think, when I was living
8 in Vegas -- '90, '91, up to '92 to my brother's death. CLC
9 was '85. I'm trying to think of any post-high school
10 courses.

11 That's all. There might have been more, but
12 that's all I can recollect at the moment.

13 Q Now what is your current occupation?

14 A Well, I'm a consultant. I just finished authoring
15 a book for John Wiley & Sons on computer security. I do
16 public speaking on computer security issues. I'm also an
17 expert witness in a case in Las Vegas against a client --
18 against Sprint Telephone. I do talk radio, but my position
19 at KFI -- I was laid off in December because of financial
20 difficulties at Clear Channel or KFI. So, I basically --
21 right now, I'm working -- I'm creating a training film for
22 companies on computer security. I basically don't have one
23 particular position where I go 9:00 to 5:00.

24 I have these consulting-type -- I'm kind of a
25 freelancer in a sense.

1 Q Okay. What you just mentioned, does that cover
2 all employments since January of 2000 or is there something
3 else?

4 A Oh, talk radio, public speaking, authoring the
5 book, writing articles for various magazines and newspaper -
6 - expert witness -- I'm trying to -- doing documentaries. I
7 was hired in some cases. That's all I can recall off the
8 top of my head at the moment.

9 Q What employment did you have between June 1992 and
10 February of 1995?

11 A June of '92 I worked for a private investigation
12 firm called Teltech Investigations. I worked there in June,
13 I think, is when I started. It was 10 years ago. After
14 Teltech Investigations, I worked for a law firm in Denver,
15 Colorado -- Holme, Roberts & Owen, for about a year and a
16 couple of months, I believe.

17 Then when I moved to Seattle, I worked for
18 Virginia Mason Medical Center as a help desk analyst. That
19 was my last position before I was arrested. I was looking
20 for work in Raleigh, North Carolina, and I was arrested
21 there.

22 Q Your arrest took place in February of 1995?

23 A February 15, 1995, correct.

24 Q Where you taken before a judge at that time?

25 A I think two days later. I don't recall. I think

1 February 17th rings a bell.

2 Q Do you recall what you were charged with?

3 A Yeah, 23 counts on having -- having 21 counts of
4 using an unauthorized access device; one count of possession
5 15 or more access devices; one of having device-making
6 equipment or access device making equipment. I don't have
7 the indictment here, but it was all related to access
8 devices.

9 Q What were the access devices that were being --

10 A Cellular telephone numbers.

11 Q The problem the government had with you with
12 respect to those cellular telephone numbers was what?

13 A I was convicted -- well, I plead guilty to
14 possessing 15 or more access devices; namely, these cellular
15 telephone numbers with intent to defraud.

16 Q In your understanding of what was involved here,
17 was that these cellular telephone numbers allowed you to do
18 what?

19 A Well, the purpose of it was, when I was engaged in
20 my computer hacking, to mask my location -- to make it
21 difficult to track my location. I'd use a cell phone
22 instead of land line phone to connect to the computer
23 systems.

24 Q Would that cellular call generate a bill?

25 A Yes, it would.

1 Q Where did that bill go to?

2 A It went to the cellular provider in some cases.
3 In some cases to an unsuspecting person who had legitimate
4 service. I didn't know them personally.

5 Q So you were able to make these calls for free?

6 A Correct.

7 Q How many times had you been arrested and
8 imprisoned prior to February of 1995?

9 A In December of 1988, I was arrested for basically
10 hacking to Digital Equipment Corporation. In '88 I served -
11 - was held on pre-trial detention for eight months. I
12 signed a plea agreement. The sentence was a year. So I did
13 a full year in custody. Then I was put under three years of
14 supervised release.

15 Prior to that, I had a misdemeanor conviction in
16 Santa Cruz, California.

17 Q Now in February of 1995, was it your understanding
18 that the government had been seeking to find you?

19 A Yes.

20 Q In February of 1995, would it be fair to say that
21 you were on the run from the government?

22 A Yes.

23 Q Would it be fair to say that you had been on the
24 run from the government for more than two years by the time
25 of your arrest in February of 1995?

1 A Well, to clarify, what happened is my supervisory
2 released on December 7th of 1992. I stayed in my residence
3 up until December 9th of 1992. I found out about a month
4 later, in January, from an attorney -- in January of '93
5 that there was a warrant for my arrest. I had no knowledge
6 of it up until that time and my supervisory release had
7 expired, to the best of my knowledge, at that time. So I
8 didn't turn myself in.

9 That's distinguishable from finding out that there
10 is -- you know, it was distinguishable in a sense because I
11 had already left before I found out about warrant, but once
12 I found out about it, I didn't turn myself in. So not being
13 a lawyer, knowing what the definition of a fugitive is,
14 suffice it to say I was trying to avoid arrest at the time.

15 MR. COLBY: Your Honor, the witness has already
16 submitted an extensive statement about all of this, which is
17 part of the government's exhibits.

18 THE COURT: Well, is that an objection to this?

19 MR. COLBY: I guess it's not an objection, but we
20 are going over the same ground. That's already been
21 admitted to in some great detail in his response to the
22 government's written questions. The witness freely admitted
23 that he became a fugitive for approximately two years and
24 describes the circumstances.

25 THE COURT: Well, it's cross examination, and to a

1 degree, I'm going to permit the government to go into these
2 areas. That's the benefit of -- some would say having the
3 benefit of having the witness testify to these matters live
4 as opposed to just a cold record. If it gets to the point
5 where this gets to be overburdensome, you feel, then by all
6 means, raise an objection.

7 MR. COLBY: I don't think it's overburdensome. I
8 just think it's redundant, but I will not make an objection
9 at this time.

10 THE COURT: You may proceed then, Mr. Shook.

11 BY MR. SHOOK:

12 Q Mr. Mitnick, once you became aware that the
13 government was looking for you, what steps, if any, did you
14 take to avoid capture?

15 A Obtain new identify and obtained work under these
16 new identities to support myself and was very careful about
17 my communications and not associating with past family and
18 friends. Basically, that's it.

19 Q So when you were in Colorado, you had an identity
20 other than Mr. Mitnick?

21 A Yes, sir. Yes, I did.

22 Q What identity was that?

23 A Eric Weiss.

24 Q When you went to Seattle, did you have still
25 another identity?

1 A Yes, I did.

2 Q What identity was that?

3 A Brian Merrill.

4 Q When you went to Raleigh, did you have an identity
5 different from those previously?

6 A Yes.

7 Q What identity was that?

8 A There was two that I could recall -- David
9 Stanfield and Tom Case.

10 Q Prior to pleading guilty in 1999 to wire fraud and
11 computer fraud, what was your understanding as to the
12 evidence the government had against you?

13 MR. COLBY: I'm going to object to that because I
14 think it's totally irrelevant. He pleaded guilty to certain
15 specific crimes. He has been found guilty of committing
16 those crimes, and I can't see the point of asking what
17 evidence there was against him. I mean, the evidence was
18 received and he was convicted and pleaded guilty of it.

19 THE COURT: When you say the evidence -- are you
20 talking about the investigative evidence or evidence that
21 they were prepared to put on at trial?

22 MR. SHOOK: Your Honor, if I may, I believe that
23 question arises from some of the phraseology that appeared
24 in the response to the Admissions.

25 MR. COLBY: I don't have any objection to asking

1 about a response to a request for an admission. What I do
2 have an objection to is going into trying establish other
3 crimes -- crimes other than the crimes for which he was
4 convicted. That's not relevant here. This proceeding is
5 based upon convictions -- felony convictions.

6 THE COURT: Well, see what we have in terms of the
7 documents. Can you refer to something specific, Mr. Shook,
8 and let's see where we go from there. What tab are you on?

9 MR. SHOOK: Well, Your Honor, as far as getting to
10 something specific, I can do that later on in questioning.
11 I don't have to do that right now.

12 THE COURT: All right, I will sustain the
13 objection, but you have the right to return to this area if
14 you have something specific to ask the witness. Then we
15 will entertain objections.

16 MR. SHOOK: That's fine.

17 THE COURT: Go ahead.

18 BY MR. SHOOK:

19 Q Do you currently have a probation officer?

20 A Yes, I do.

21 Q His name is?

22 A Larry Hawley.

23 Q Has Mr. Hawley been your probation office since
24 your release from federal prison in January 2000?

25 A Yes.

1 Q How often have you met with Mr. Hawley in person
2 since your release from federal prison?

3 A Approximately, on a weekly basis.

4 Q Does that involve your having to travel to
5 wherever he is or does he come to you?

6 A Both. I go to him once a month. He sees me three
7 to four times a week at my residence.

8 Q How often have you communicated with Mr. Hawley,
9 other than in person, since your release from federal
10 prison?

11 A By telephone, we communicate. I don't recall the
12 frequency.

13 Q Roughly.

14 A Usually, when I need to ask his permission to do a
15 particular job assignment or to travel. Usually, I phone
16 for anything I need with respect -- because I'm obligated to
17 under the condition of my release.

18 Q This is related to the last question. You may
19 have provided part of the answer in responding to the last
20 question, but when you communicate with Mr. Hawley, either
21 in person or otherwise, is there information that you
22 ordinarily provide him?

23 A He recognizes my voice. I don't understand the
24 question.

25 Q Well, in terms of, you know, I am at a particular

1 location or this is what I'm doing currently or this is what
2 I'm about to do?

3 A I don't volunteer. Any questions that he -- well,
4 he already knows what I am doing. Well, when he visits me
5 at my home, we usually speak for an hour -- sometimes even
6 more. You know, we discuss what I'm doing. We discuss
7 other subjects.

8 Q Right. I'm not interested if you happen to discuss
9 the situation in the Middle East or something like that. It
10 was more focused on your personal situation. I believe you
11 answered that.

12 A Yes, of course, that's his job. So he asks me any
13 types of questions that he needs clarification on.

14 Q Now referencing paragraph 6 of your testimony --
15 so if you could briefly just read that.

16 A Do you want me to read it out loud?

17 Q No, you can just read it to yourself.

18 (Witness examines the document.)

19 A Okay.

20 Q My question is, when you focus on the very last
21 phrase, when it speaks of minimizing the risks associated
22 with computer intrusions, if you could clarify for us your
23 understanding of what are the risks associated with computer
24 intrusions?

25 A Well, the threats are many, and with information

1 security, you can never develop a solution that's 100
2 percent foolproof. So in the information security field, we
3 call it risk management. It's about managing what we call
4 vulnerabilities, which are weaknesses in physical security,
5 network security, computer security, personnel security and
6 operations security.

7 In the InfoSect field, we manage these
8 vulnerabilities to raise the bar to a certain acceptable
9 level because usually you have three choices -- you either
10 accept the risk at the current level; you minimize the risk
11 or you transfer the risk, for example, insurance. So that's
12 what I meant by minimizing the risk is that's the only thing
13 that you can really hope to do in this particular field.

14 It's like a diet. You can't give somebody a
15 solution that their going to lose weight. There is no magic
16 pills like there is no magic pill for computer security.

17 Q Okay. Now currently you have the call sign N6NHG,
18 correct?

19 A Correct.

20 Q You have operated under that call sign since your
21 release from federal prison?

22 A Yes.

23 Q Have you ever operated under any other call sign?

24 A Yes.

25 Q When was that, approximately?

1 A I was licensed when I was 13 years old. I think
2 that was '76, '77. I operated under that, I'd say, until
3 '83, '84.

4 Q You do not currently operate under that call sign?

5 A No, I do not have that call sign any more, so I'm
6 not allowed to.

7 Q Did you completed renewal application for license
8 for an amateur station N6NHG?

9 A Yes, I did.

10 Q At the time you completed that application, you
11 were in federal prison, correct?

12 A That is correct.

13 Q I want to show you a document and ask you to
14 identify it. So I'm going to give Lauren a copy. I will
15 give you a copy, and I will give the Judge a copy.

16 Q First off, what I have given you consist of four
17 pages and only two of them have any kind of handwriting on
18 them. Focusing on those first two pages, do you recognize
19 the handwriting that is there?

20 A Yes, I do.

21 THE COURT: Can we get this marked for
22 identification?

23 MR. SHOOK: I was going to do that after making
24 sure that, in fact, we have what we think we have.

25 THE WITNESS: That is my handwriting or printing.

1 MR. SHOOK: There appears to be a signature on the
2 second page?

3 THE WITNESS: Yes.

4 MR. SHOOK: That signature is yours.

5 THE WITNESS: Yes.

6 MR. SHOOK: Your Honor, at this time, I would like
7 this marked as Enforcement Bureau Exhibit 6.

8 THE COURT: It's marked as Exhibit 6 for
9 identification. What does the document appear to be?

10 MR. SHOOK: It appears to be FCC Form 605, which
11 is an application form for an amateur restricted and
12 commercial operator in the general mobile radio services.

13 THE COURT: It will be marked for identification
14 as the Bureau's Exhibit 6.

15 (The document referred to was
16 marked for identification as
17 EB Exhibit No. 6.)

18 BY MR. SHOOK:

19 Q Now Mr. Mitnick, I would like to direct your
20 attention to Item No. 15, which appears on the first page of
21 the document.

22 A I see it.

23 Q Could you tell us what address that is?

24 A 7113 West Gowan Road, Las Vegas, Nevada 89129.

25 Q Whose address is that?